

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re : Douglas LeCrone, Daniel A. Murphy and Denis
Hall
Serial No. : 10/692,285
Filed : October 23, 2003
FOR : METHOD AND APPARATUS FOR MONITORING UPDATE
ACTIVITY IN A DATA STORAGE FACILITY
EXAMINER : Khanh Pham
ART UNIT : 2125

April 16, 2007

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION TO REVIVE APPLICATION BASED ON A FAILURE TO RECEIVE
OFFICE ACTION

Applicants hereby petition the Examiner to revive the
above-identified patent application because Applicant's
representative failed to receive an Office Action.

According to the United States Patent and Trademark Office
records available through Private Pair, a Notice of Non-
Compliant Amendment was sent to George A. Herbster, attorney of
record in the above-identified application on or about August
10, 2006.

The attached Declaration of Mary C. Hoggard describes the
steps Mary C. Hoggard takes upon receipt of any document like
the Notice of Non-Compliant Amendment and the steps she took to

determine whether the Notice was ever received. That Declaration (1) demonstrates that Mary C. Hoggard is an experienced docket clerk and (2) defines the steps in which mail has been handled in this office since 1990.

The attached Declaration of George A. Herbster describes the operation the docketing system used in this office. It also describes a search and results of that search. Specifically, that Declaration sets forth the fact that only a February 10, 2007 entry would still have been included in the active file. A copy of the calendar page for that date is attached to the Herbster Declaration. Any earlier entries are now archived and that the archive has been searched. Only the entries for prior responses to (1) a Notice of Missing Parts and (2) the Office Action for which a response was due August 3, 2006 and filed on that same date. The specific entries are included in Exhibit 2 to the Herbster Declaration.

A "print screen" copy of the Private Pair entry for the above-identified application contains two entries for the Notice of Non-Compliant Amendment. An inspection of the images discloses what appear to be two different copies of the Notice of Non-Compliant Amendment in the file.

We conclude that the foregoing Notice of Non-Compliant Amendment was either (1) never mailed from the United States Patent and Trademark Office or (2) lost in the mail. In either event, the Notice was never received by this office.

A response overcoming the issues raised in the Notice of Non-Compliant Amendment is filed herewith.

Therefore Applicants respectfully request that the prosecution of this application be continued as if the response to the Notice of Non-Compliant Amendment had been filed in a timely manner.

Applicants are paying the petition fee. If, however, it is determined that the petition fee is not required, Applicants respectfully request a refund to their Deposit Account No. 05-0889.

If there are any questions, we urge the Examiner to call us collect.

Respectfully Submitted,

/George A Herbster/

George A. Herbster,
Reg. No. 24,002
40 Beach Street
Manchester, MA 01944
(978) 526-8111

ATTACHMENT TO
PETITION TO REVIVE APPLICATION BASED ON A FAILURE TO RECEIVE
OFFICE ACTION

PRIVATE PAIR PRINT SCREEN

Secured Patent Application Information Retrieval

Download

Order Certified Application as Filed

Order Certified File Wrapper

View Order List

10,632,285 Method and apparatus for monitoring update activity in a data storage facility

Select New Case

Applications by Attorney/Doctel

Application Data

Transactions History

Image File Wrapper

Continuity Data

Published Documents/Attorney Pages

Address & References

Display

Publication Review

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Start Download.

Available Documents

Mail Room Date	Document Description	Document Category	Page Count	Select All	Start Download	Clear All
08-10-2006	Notice to the applicant regarding a Non-Comment Amendment	PROSECUTION	2	<input type="checkbox"/>		
08-10-2006	Notice to the applicant regarding a Non-Comment Amendment	PROSECUTION	2	<input type="checkbox"/>		
08-03-2006	Amendment - After Non-Final Rejection	PROSECUTION	1	<input type="checkbox"/>		
08-03-2006	Claims	PROSECUTION	12	<input type="checkbox"/>		
08-03-2006	Amendment Comments/Comments Made in an Amendment	PROSECUTION	21	<input type="checkbox"/>		
08-03-2006	Technical Drawings Filed	PROSECUTION	2	<input type="checkbox"/>		
08-03-2006	Fee Worksheet (PTA-851)	PROSECUTION	2	<input type="checkbox"/>		
08-03-2006	Phone Letter Mailed to Applicant	PROSECUTION	2	<input type="checkbox"/>		
05-03-2006	Non-Final Rejection	PROSECUTION	24	<input type="checkbox"/>		
05-03-2006	List of References cited by applicant and considered by examiner	PRIOR ART	1	<input type="checkbox"/>		
05-03-2006	List of references cited by examiner	PRIOR ART	1	<input type="checkbox"/>		
05-03-2006	Examination Report Sheet	PROSECUTION	1	<input type="checkbox"/>		
05-03-2006	Index of Claims	PROSECUTION	1	<input type="checkbox"/>		
05-03-2006	Search Information including classification, database, and other search related notes	PROSECUTION	1	<input type="checkbox"/>		
04-20-2006	Examiner's search strategy and results	PROSECUTION	3	<input type="checkbox"/>		
06-04-2004	Notice/Notice to Inventor Letter	PROSECUTION	1	<input type="checkbox"/>		
06-04-2004	Informative Disclosure Statement (IDS) filed	PROSECUTION	2	<input type="checkbox"/>		
01-27-2004	Provisional Application Notice	PROSECUTION	2	<input type="checkbox"/>		
10-23-2003	Fee Worksheet (PTA-851)	PROSECUTION	1	<input type="checkbox"/>		
10-23-2003	Fee Worksheet (PTA-851)	PROSECUTION	1	<input type="checkbox"/>		
10-23-2003	Transmittal of New Application	PROSECUTION	2	<input type="checkbox"/>		
10-23-2003	Specification	PROSECUTION	23	<input type="checkbox"/>		
10-23-2003	Claims	PROSECUTION	17	<input type="checkbox"/>		
10-23-2003	Abstract	PROSECUTION	1	<input type="checkbox"/>		
10-23-2003	Drawings	PROSECUTION	7	<input type="checkbox"/>		